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Anthony Rose

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DAVIDSON BERQUIST JACKSON & GOWDEY, LLP

ATTN: BRIAN SIRITZKY, Ph.D.

4300 WILSON BLVD., 7TH FLOOR

ARLINGTON, VA 22203

EXAMINER

OBEID, MAMON A

ART UNIT

PAPER NUMBER

3621

MAIL DATE

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/720,835

**Applicant(s)**

ROSE, ANTHONY

**Examiner**

MAMON OBEID

**Art Unit**

3621

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE \_\_\_\_ MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 25 September 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1- 16 and 38- 46 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1- 16 and 38- 46 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/S5108)  
Paper No(s)/Mail Date 09/25/2008
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_

**DETAILED ACTION**

***Acknowledgements***

1. This communication is in reply to the claims amendment filed September, 25, 2008.
2. Claims 1-7, 10-16 have been amended.
3. Claims 17- 37 have been canceled.
4. Claims 38 -47 have been added.
5. Claim 47 have been withdrawn from consideration as being directed to a non-elected invention (see restriction below).

6. Claims 1- 16 and 38- 46 are currently pending and have been examined.

***Restrictions***

7. On October 3, 2007, the Examiner has restricted the claims into three distinct groups (Group I, II and III) ("Restriction Requirement"). Applicant has elected without traverse group I (claims 1- 16 and 19) in the reply filed on December, 12, 2007.

8. Newly submitted claim 47 is directed to an invention that is independent or distinct from the invention originally claimed for the following reasons:

9. In the claims amendment, Applicant has added some new claims including independent claim 47. However, the Examiner asserts that the subject matter of the newly added independent claim (claim 47) has been previously restricted and grouped into unelected group (e.g. Group III) (see the Restriction Requirement).

10. Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claim 47 is withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

***Claim Rejections - 35 USC § 101***

11. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

12. Claims 9 is rejected under 35 U.S.C. §101 because the claims are considered hybrid claims. See MPEP §2173.05(p) II. If Applicants overcome the related 35 U.S.C. §112 2nd paragraph rejection below, this particular 35 U.S.C. §101 rejection will be withdrawn.

***Claim Rejections - 35 USC § 112-1<sup>st</sup>***

13. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

14. Claims 1- 16 and 38- 46, are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

15. Claim1, for example, recites "associating a first trusted entity with the first computer" and further recites ""associating a second trusted entity with the second computer". The Examiner asserts that there is no support in Applicant's original specification supporting the limitations above. Specifically, no support exists for a "first computer" and a "second computer" being associated with the first or second computer. If Applicant believes that there is support for the limitations above and any limitations associated with them, Applicant should provide evidence from the Applicant's original

specification supporting his/her claim. Upon receiving proper evidence, this rejection will be withdrawn.

***Claim Rejections - 35 USC § 112-2<sup>nd</sup>***

16. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

17. Claim 9 is indefinite because the claims are considered hybrid claims. See MPEP §2173.05(p) II. In particular, the claims are directed to neither a “process” or a “machine” but rather embrace or overlap two different statutory classes of invention as set forth in 35 U.S.C §101. For example, claim 9 recites “a module”, a “receipt request generator”, “receipt generator module” and “receipt validation module” without any positive method step recitation. In light of this evidence, the Examiner interprets these recitations as express intent by Applicants to claim a product claim. Additionally, claim is 9 dependent on claim 1 which recites “a method of measuring...” In light of the conflicting evidence noted above, claim 9 could reasonably be drawn to either a product or process. In accordance with §2173.05(p) II which states that a single claim must be drawn to either a product or process (but not both) and because a competitor of Applicants would not know whether *possession* of the claimed structure constituted infringement, or alternatively, if infringement required the *execution* of the recited method steps, the claims are indefinite. If Applicants overcome this particular 35 U.S.C. §112, 2<sup>nd</sup> paragraph rejection, the related 35 U.S.C. §101 rejection will also be

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withdrawn. For examination purposes, the Examiner will interpret claims 9 as a claim directed to a method only.

18. Claim 42 recites the limitation "the second user", there is insufficient antecedent basis for this limitation in the claim.

19. Claim 43 recites the limitation "the transaction", there is insufficient antecedent basis for this limitation in the claim.

20. Claim 44 recites the limitation "prior to issuing said ticket", there is insufficient antecedent basis for this limitation in the claim. The Examiner submits that no prior claims have recited ticket issuing.

***Claim Rejections - 35 USC § 103***

21. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

22. Claims 1- 9, 12-16 and 38- 42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Curie et al (U.S. Patent No. 6, 871, 232 B2) ("Curie") in view of Dutta (U.S. Patent Application Publication No. 2003/0093695), ("Dutta").

23. **As per claims 1, 12, 13, 14 and 19** : Curie discloses the following limitations:

- a. associating a first trusted entity with the first computer (column 3, lines 45- 57);
- b. associating a second trusted entity with the second computer (column 3, lines 45- 57);
- c. receiving at the resource usage verification authority (RUVA) server, from the first trusted entity, information about an intended resource use (column 4, lines 21- 40);
- d. providing a ticket, from said RUVA server to the first trusted entity, said ticket including at least portion of said information (column 4, lines 21- 40);
- e. transmitting said ticket from the first trusted entity to the second trusted entity (column 4, lines 21- 40);

Curie Does not expressly discloses modifying the ticket and comparing the original ticket with the modified ticket. However, Dutta does explicitly disclose the following limitations:

- f. the second trusted entity modify the ticket to produce a modified ticket, said modified ticket being based at least in part upon actual resources provided by said second computer to said first computer (§ [0015]);



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- g. Said second trusted entity transmitting said modified ticket to the first trusted entity (¶ [0015]);
- h. Said first trusted entity transmitting the modified ticket to the RUVA server (¶ [0013]) ; and
- i. Said RUVA server utilizing said ticket and said modified ticket to determine the extent of resources provided by the second computer to the first computer (¶¶ [0045], [0068], [0069])

24. Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to modify Curie's teachings to include the steps (e-h) as shown above and disclosed by Dutta to authenticate the source of a ticket and to ensure that the that the ticket has not been altered during transmission (Dutta: ¶ [0006]).

25. **As per claim 2:** Curie further discloses wherein the benefit or resources provided by the second computer include at least one of provision of a file, provision of bandwidth, provision of CPU cycles, or provision of disk or memory storage (column 8, lines 3-14).

26. **As per claim 3:** Curie further discloses wherein the ticket issued by the RUVA server comprises at least one of a machine identification field, a field for a file name, a

field for a hash of a file, a field for a randomly generated number, a weighting field, a time field, a value field, or a date field (column 34, lines 1- 20).

27. **As per claim 4:** Curie further discloses wherein the server stores a copy of said ticket (column 4, lines 21- 40).

28. **As per claims 5, 6 and 7:** In addition to the limitations of claim 1 above, Curie further discloses a ticket validation/ authentication (column 34, lines 1- 20). Curie on the other hand doesn't expressly disclose wherein the second trusted entity validates the ticket by checking that the ticket has been signed by the RUVA server. However, Dutta discloses authenticating the ticket by checking the signature (¶ [0015]).

29. Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to modify Curie's teachings to incorporate a digital signature for ticket validation to authenticate the source of ticket and to ensure that the that the ticket has not been altered during transmission.

30. **As per claims 8 and 9:** Curie further discloses said first trusted entity is a module incorporating authentication, encryption or data signing capabilities in data communication with a computing device (figures 7A- E and related text).

31. **As per claims 15 and 16:** Curie further discloses having the first trusted entity organize a plurality of tickets into a record and communicating said record to the server; determining, from said record, the extent of resources provided by a plurality of second computers to a plurality of first users and modifying a database to record the extent of resources provided by said plurality of second users to said plurality of first users (column 34, lines 1- 65).

32. **As per claims 38- 41:** Currie discloses the limitations of claim 1 as shown above. Currie further discloses a ticket validation/ authentication (column 34, lines 1- 20). Currie does not specifically disclose digital signatures. However, Dutta clearly discloses signing; authenticating and validating utilizing digital signatures which is fundamental in the art (figure 4 and associated text).

33. Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to modify Currie's teachings to utilize digital signatures as claimed by Applicant and as disclosed by Dutta, to authenticate the source of a message or ticket and to ensure that the message or ticket has not been altered during transmission (§ [0006]).

34. **As per claim 42:** Currie discloses allocating value to said second user based upon said determination of the extent of resources provided by the second user (column 31, lines 41- 51).

35. Claims 10, 11 and 43- 46 are rejected under 35 U.S.C. 103(a) as being unpatentable over Curie in view of Dutta and further in view of Terretta (U.S. Patent Application Publication No. 2001/0047275 A1).

36. **As per claims 10, 11 and 43- 46:** The combination Curie/ Dutta discloses the limitations of claim 1 as shown above. The combination Curie/ Dutta does not expressly disclose having the server conduct a redundancy check prior to, or subsequent to, issuing the ticket, wherein the step of conducting the redundancy check is achieved by determining whether a file being accessed by the first user has not already been downloaded in whole or in part. However, Terretta discloses ensures that a registered user does not simultaneously receive multiple content files by monitoring and checking the status of each registered user before delivering content thereto (§§ [0020]-[0022]).

37. Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to modify Curie/ Dutta's teachings to include a redundancy check function disclosed by Terretta to prevent unregistered users from downloading content by using personal information of a registered user, in other words, to ensure that "one ticket, one seat" is achieved (Terretta (§ [0020])).

12. **Examiner's Note:** The Examiner has pointed out particular references contained in the prior art of record within the body of this action for the convenience of the Applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply. Applicant, in preparing the response, should consider fully the entire reference as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the Examiner.

***Response to Arguments***

38. Applicant's arguments filed September 25, 2008 have been fully considered but they are not persuasive.

- a. Applicant should submit an argument under the heading "Remarks" pointing out disagreements with the examiner's contentions. Applicant must also discuss the references applied against the claims, explaining how the claims avoid the references or distinguish from them.
- b. In response to applicant's arguments (page 11) against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

c. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., preventing a second user from obtaining unearned awards, page 10) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

39. Applicants argues "The Examiner relies on Dutta ¶¶0045 supposedly to teach "utilizing said ticket and said modified ticket to determine the extent of resources provided by the second user to the first user". However, the Examiner respectfully disagrees. Dutta discloses a multiple use ticket. The ticket may be used n times, each time the ticket is used, it is updated to reflect the usage of the ticket (¶¶ [0069], [0071]; figure 4 and related text).

### ***Conclusion***

40. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

41. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not

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mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

42. Any inquiry concerning this communication or earlier communications from the examiner should be directed to MAMON OBEID whose telephone number is (571)270-1813. The examiner can normally be reached on Mon-Fri 9:30 AM- 6:00 PM.

43. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew J. Fischer can be reached on (571) 272-6779. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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44. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Mamon Obeid  
Examiner  
Art Unit: 3621  
December 13, 2008

/Calvin L Hewitt II/  
Supervisory Patent Examiner, Art Unit 3685